

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:21-cr-00264</b>
	)	<b>CHIEF JUDGE WAVERLY CRENSHAW</b>
<b>BRIAN KELSEY and</b>	)	
<b>JOSHUA SMITH.</b>	)	
	)	
<b>Defendants.</b>	)	

**AGREED SCHEDULING ORDER**

The Court has been advised that the parties have agreed as follows:

This case will proceed to trial on **January 23, 2023, at 9:00 a.m.** The parties expect the trial to last up to three weeks.

**Deadlines**

Regarding pretrial motions, other deadlines, and status conferences, the parties agree to the following schedule:

**Superseding Indictment Deadline**

**February 4, 2022**      Deadline for the government to obtain a Superseding Indictment

**Discovery-Related Motions**

**May 6, 2022**      Deadline for motions regarding discovery issues and timing of *Brady* or other government disclosures

**May 20, 2022**      Deadline for responses in opposition to discovery-related motions

**May 27, 2022**      Deadline for any replies related to discovery-related motions

**June 10, 2022**      Status Conference at 9:00 a.m. and any motion hearing (if necessary)

### **Expert Disclosures**

**May 20, 2022**                      Deadline for the parties to disclose expert witnesses

### **Deadline for Resolution via Fed.R.Crim.Proc. 11(c)(1)(B) or (C)/Status Conference**

**August 12, 2022**                      Deadline to reach a resolution via Fed.R.Crim.Proc. 11(c)(1)(B) or (C)  
Status Conference at 9:00 a.m.

**October 21, 2022**                      Deadline for entry of an open plea. If the defendant has not filed a motion to  
change plea by that date, the United States will oppose any attempt by the  
defendant to seek the benefit of the U.S.S.G § 3E1.1(b) third point offense  
level reduction for acceptance of responsibility, to the extent it could apply.

### **Pretrial Motions, including *Daubert* Motions Related to Expert Witnesses**

**September 2, 2022**                      Deadline for pretrial motions, including *Daubert* motions

**September 16, 2022**                      Deadline for responses to motions

**September 23, 2022**                      Deadline for replies to motions

### **Evidentiary Hearings (Including *Daubert* Hearings)/Status Conference**

**October 3-7, 2022**                      Status Conference on October 7, 2022 at 9:00 a.m.

### **Rule 12.2 Notice**

**November 23, 2022**                      Deadline to file Rule 12.2 Notice

### **Rule 12.1 Notice**

**November 23, 2022**                      Deadline to file Rule 12.1 Notice

### **Exhibit Review**

- November 10, 2022** Exhibit Review<sup>1</sup>
- November 21, 2022** Deadline for joint certification that exhibit review has been completed and statement of any related issues
- December 2, 2022** Status conference at 9:00 a.m. to discuss any issues related to the exhibit review

### **Motions in Limine**

- December 8, 2022** Motions in Limine shall be filed
- December 22, 2022** Responses to motions in limine shall be filed
- December 29, 2022** Any replies to motions in limine shall be filed

### **Government's Notices Pursuant to Rules 404(b) and 609**

- August 5, 2022** Government shall file notice of intent to offer evidence under Federal Rules of Evidence 404(b) and 609
- Federal Rule of Evidence 404 motions to admit or exclude shall be filed by September 7, 2022. Responses shall be filed by September 21, 2022. Any reply shall be filed by September 28, 2022.

### **Juror Questionnaires**

- November 23, 2022** Proposed Juror Questionnaires Due
- December 2, 2022** Status conference on proposed jury questionnaire at 9:00 a.m.
- January 10, 2023** Distribution of Completed Juror Questionnaires to the Parties

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<sup>1</sup> The government reserves the right to introduce at trial exhibits not made available to the defendants at the exhibit review if necessary, because of such situations where the government elects to introduce an exhibit at trial that has been previously provided to the defense in discovery but which the government did not contemplate using as an exhibit at trial at the time of the exhibit review, or where the government learns of additional evidence after the exhibit review and intends to introduce that evidence at trial. The defense also reserves its right to object to the introduction of such evidence as appropriate, including (for example) on the grounds that such evidence is unduly prejudicial or should have been produced earlier or is otherwise excludable. The government will make all reasonable efforts to alert the defendants of any such development at the earliest possible time.

**Jencks Material Disclosure**

**November 20, 2022** Government shall disclose all remaining Jencks material to defendants

**Witness/Exhibit Disclosure**

**January 4, 2023** Government and the defense shall disclose its witness and exhibit lists<sup>2</sup>

**Jury Instructions, Verdict Form, Joint Statement of the Case, Trial Briefs and other matters**

**December 27, 2022** Proposed jury instructions, verdict form, joint statement of the case for jury selection, trial briefs and any case specific voir dire question that either party request be asked by the Court

**Pretrial Conference**

**January 5-6, 2023** Pretrial Conference from 9:00 a.m. – 5:00 p.m. each day.

The Court, having considered the agreement, hereby adopts the same.

SO ORDERED.

This \_\_\_\_\_ day of January, 2022.

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WAVERLY D. CRENSHAW, JR.  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>2</sup> The defense will make a good faith effort to disclose all witnesses the defendant intends to call in its case-in- chief. But the defense reserves the right to call other witnesses depending upon the government's proof presented during the trial. The government likewise reserves its right to add to its witness list depending upon the proof presented in the defendant's case-in-chief.